

## Weekly Report - ORC

Reporting Period: 07/31/2022(Sunday)-08/06/2022(Saturday)

### AIR ENFORCEMENT BRANCH

**Clean Air Act Notice of Violation Issued to Chisholm Energy Operating, LLC for New Mexico 2020 Permian Basin Flyover Emissions-** On August 1, 2022, EPA Region 6 issued a Clean Air Act Notice of Violation and Opportunity to Confer ("NOVOC") to Chisholm Energy Operating, LLC ("Chisholm") for potential violations of the Clean Air Act ("CAA") and the New Mexico State Implementation Plan (SIP) at eight of its energy extraction facilities in the Permian Basin. The violations were identified using optical gas imaging technology during helicopter flyovers conducted by an EPA contractor from August 25 through October 15, 2020, in the Permian. EPA reviewed information provided by Chisholm in response to our February 1, 2021, letter informing the company of potentially unauthorized emissions at its facilities, and we considered that information in determining whether violations occurred. The NOVOC states that Chisholm failed to comply with general requirements of New Source Performance Standards, found at 40 C.F.R. Part 60, Subpart OOOOa, New Mexico's SIP and the facilities' New Mexico Air Quality Bureau General Construction Permits for Oil and Gas Facilities (GCP-Oil & Gas) and includes violations for tanks with unauthorized emissions. The NOVOC requests that Chisholm respond to EPA Region 6 within ten business days. EPA has coordinated the flyover enforcement response with the New Mexico Environment Department. *Lindsay Rich Steinmetz (214) 665-7425 (Cell-214-665-7425)*

**Chesapeake Energy New Owner Audit Agreement-** On August 1, 2022, EPA Region 6 and Chesapeake Energy Corporation (Chesapeake) entered into a New Owner Audit Agreement regarding 320 facilities in Northern Louisiana that Chesapeake acquired from Vine Energy Inc. on November 1, 2021. Chesapeake submitted a proposal to enter into a New Owner Audit Agreement on March 17, 2022. The scope of the audit is a multi-facility assessment of compliance with federally-enforceable environmental laws, regulations, and permits relating to the Clean Air Act. EPA accepted Chesapeake's proposed schedule to complete the audit by March 31, 2023, and correct violations within 60 days of discovery as required under the New Owner Audit Policy unless an extension is requested and approved. Additionally, Chesapeake will submit quarterly status updates of the audit every 90 days, with the first due September 30, 2022, and a Final Report by June 15, 2023 including Chesapeake's responses to the New Owner Self-Disclosure Questionnaire. *Erin Tanimura (214) 665-8181 (Cell-214-665-8181)*

**Denka Performance Elastomer, LaPlace, La-** On January 7, 2022, Denka commenced a fenceline monitoring program (Method 325 passive diffusion tube) at its neoprene production facility. On July 22, 2022 Denka timely submitted monitoring data for the period of June 9 to July 7, 2022. The highest chloroprene results from that period are 2.60 and 2.06 micrograms per cubic meter detected at two monitors at facility's southern fenceline. EPA has posted all lab results from the fenceline monitors on EPA's public website. EPA also continues to continuously monitor the air around the facility using a network of six SPod monitors. The SPod program began in March 2020. Settlement discussions between DOJ, EPA, LDEQ, and Denka and former owner DuPont, relating to Clean Air Act violations discovered in 2016, are continuing. *Richard Lannen (214) 665-8130 (Cell-214-665-8130)*

### DEP RGNL CNSL AND GNRL LAW BR

**Region 6 Files Administrative Record in Arkansas District Court Lawsuit over EPA Objections-** On July 29, 2022, EPA filed its Certified Index to the Administrative Record with the Eastern District Court in Arkansas in relation to a lawsuit filed on April 21, 2022, by the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ) regarding Region's 6's objections to DEQ's proposed NPDES permits for the NACA and Springdale wastewater treatment facilities. The district court complaint alleges that EPA's objections were untimely, without statutory authority, in violation of procedural requirements, and arbitrary and capricious. On January 21, 2022, and February 10, 2022, respectively, Region 6 specifically objected to DEQ's proposed permits for the NACA and Springdale facilities based upon, among other things, the permits' failure to ensure compliance with applicable water quality standards for TP as required by 40 C.F.R. 122.44 (d)(1). The Specific Objection letters require DEQ to revise the TP effluent limits in the permits to ensure compliance with Arkansas' narrative nutrient

water quality standard and the 0.037 mg/L TP water quality criterion for the downstream State of Oklahoma. EPA determined the appropriate TP effluent limitation for each facility to be 0.1 mg/L TP. EPA's specific objections followed its December 30, 2021, general objections and notification to DEQ that the state NPDES permits issued on December 1, 2021, to NACA and Springdale are not valid or effective for purposes of the CWA. Following the Region's review of DEQ's draft permits for these facilities, significant comments were submitted during the public comment periods and the permits changed prior to issuance by the DEQ. Accordingly, DEQ was required pursuant to federal regulations and the NPDES authorization MOA between EPA and DEQ to forward the proposed permits to EPA for review prior to issuance. Because DEQ did not do so, the permits are not validly issued NPDES permits. Instead, EPA determined them to be proposed permits and subject to EPA review.

*Elizabeth Ryland (214) 665-2130 (Cell-214-665-2130)*

**Permittees file Motion for Surreponse in LANL NPDES Permit Appeal-** On August 3, 2022, the U.S. Department of Defense and Triad National Security, LLC, co-permittees filed a motion for leave to file a Surreponse in ongoing litigation over EPA's issuance of an NPDES permit to the Los Alamos National Laboratory (LANL). EPA issued NPDES permit renewal for LANL on March 30, 2022. Citizens groups appealed permit authorization for six of the eleven permitted outfalls, asserting two main legal theories: 1) EPA may not issue NPDES permit authorization for discharges which are uncertain to occur, and 2) one of the units should be covered by a RCRA permit and if NPDES coverage prevents application of RCRA, then EPA should not issue the NPDES permit. Petitioners requested oral arguments. EPA filed a Response on July 7 and Petitioners replied fifteen days later. Permittees filed a motion on August 3, asking the EAB for leave to file a surreponse to correct factually incorrect assertions in Petitioners' Reply. EPA does not object to the motion.

*Jay Przyborski (214) 665-6605 (Cell-214-665-6605)*

#### **MULTIMEDIA COUNSELING BRANCH**

**Proposed reissuance NPDES General Permit for Offshore Oil and Gas Operations in the Western Gulf of Mexico (GMG290000)-** EPA proposed to reissue a National Pollutant Discharge Elimination System (NPDES) general permit authorizing discharges of New and Existing Sources and New Dischargers in the Offshore Subcategory of the Oil and Gas Extraction Category for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico (GMG290000). The notice of this proposal was published in the Federal Register on July 22, 2022. Public meetings and hearings will be held in Houston & New Orleans in late August.

*Thomas Gillespie (214) 665-7467 (Cell-214-665-7467)*

#### **RCRA/TOXIC ENFORCEMENT BRANCH**

**FIFRA Advisory Letter Issued to Titan Source 1, in Baton Rouge, LA-** On August 2, 2022, EPA Region 6 issued an advisory letter to Titan Source 1 under its authority pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). The company produces the sterilization pesticide device, TS CBlue™ Lantern. The Advisory Letter was issued because Titan Source 1 may have violated Section 12(a)(1)(F) of FIFRA, 7 U.S.C. 136j(a)(1)(F) by misbranding the device in advertisements as "safe" and "the only lantern recognized by the EPA." In addition, it is uncertain whether the pesticide device was produced in a registered establishment pursuant to Section 12(a)(2)(L) of FIFRA, 7 U.S.C. 136j(a)(2)(L) and 40 CFR 167.20.

*Hollis Henley (214) 665-7278 (Cell-214-665-7278)*

**EPCRA and CAA Notice of Determination - PPG Industries, Inc. - Oklahoma City, OK-** On July 27, 2022, EPA Region 6 issued a Notice of Determination (NOD) to PPG Industries, Inc., (PPG) concerning the Milamar Coatings facility in Oklahoma City, Oklahoma. The NOD conveyed EPA's determination that violations of sections 312 and 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. Sections 11022 and 11023 and the Oil Pollution Prevention regulations in 40 C.F.R. section 112 voluntarily disclosed to EPA and corrected in a timely fashion by PPG were eligible for the incentives for voluntary disclosure contained in the "Interim Approach to Applying the Audit Policy to New Owners", 73 Fed. Reg. 44,991 (Aug. 1, 2008).  
*Nathan Taylor (214) 665-3128 (Cell-214-665-3128)*

**SUPERFUND BRANCH**

**BA Shipyard Superfund Site-** On July 25, 2022, EPA filed a 3rd amendment to the Remedial Investigation/Feasibility Study Administrative Order on Consent adding Steuart Investment Company, Steuart Holding Company, LLC, and Steuart Transportation Company as additional parties to the AOC. With this amendment, sixteen parties are now performing the RI/FS at the SBA Shipyard Superfund Site.  
*Amy Salinas (214) 665-8063 (Cell-214-665-8063)*

**CONFIDENTIAL:**

**RCRA/TOXIC ENFORCEMENT BRANCH**

## **Ex. 5 Deliberative Process (DP)**

**From:** Torres, Michael [torres.michael@epa.gov]  
**Sent:** 6/10/2022 7:54:50 PM  
**To:** Turner, Philip [Turner.Philip@epa.gov]; Hidalgo, Chelsea [Hidalgo.Chelsea@epa.gov]  
**CC:** Atkins, Blake [Atkins.Blake@epa.gov]  
**Subject:** RE: SBA Shipyard -- Fish Tissue Sample Results

## Ex. 5 Deliberative Process (DP)

Thanks.

**From:** Scott Lindenmuth <Scott.Lindenmuth@ehs-support.com>  
**Sent:** Thursday, June 9, 2022 2:24 PM  
**To:** Torres, Michael <torres.michael@epa.gov>  
**Cc:** Atkins, Blake <Atkins.Blake@epa.gov>; Turner, Philip <Turner.Philip@epa.gov>; Hidalgo, Chelsea <Hidalgo.Chelsea@epa.gov>; Jon Hamilton <jon.hamilton@ehs-support.com>; Beth Hesse <beth.hesse@ehs-support.com>  
**Subject:** SBA Shipyard -- Fish Tissue Sample Results

Mr. Torres,

We received the organotins results for the fish tissue samples from the dry dock (IAC-7) and background locations in the Mermentau River (see attached laboratory report). Consistent with the organotins fish tissue analysis proposal that was presented to representatives from the United States Environmental Protection Agency (USEPA) and the Louisiana Department of Environmental Quality (LDEQ) on May 6, 2022, and approved by USEPA on May 16, 2022, two tissue samples from the dry dock and two tissue samples from upstream ( i.e., background) locations in the Mermentau River were analyzed for organotin compounds. The laboratory results have been reviewed by our data validation expert and there are no data quality or data usability issues. A summary of the results is provided in the table below:

Site Feature	Sample ID	Tissue Type	Analyte	TSL (µg/Kg)	Result (µg/Kg)
Background (Mermentau River - Upriver)	MRBKGD-UP-PFT06	Predator - Largemouth Bass	n-Butyltin Cation	230	0.18 U
			Di-n-butyltin Cation	230	0.11 U
			Tri-n-butyltin	230	0.11 U
	MRBKGD-UP-BFT06	Bottom Feeder - Catfish	n-Butyltin Cation	230	0.18 U
			Di-n-butyltin Cation	230	0.11 U
			Tri-n-butyltin	230	0.11 U
IAC-7 – Dry Dock	IAC-7-PFT03	Predator - Largemouth Bass	n-Butyltin Cation	230	0.34 J
			Di-n-butyltin Cation	230	0.11 U
			Tri-n-butyltin	230	0.11 U
	IAC-7-BFT03	Bottom Feeder - Catfish	n-Butyltin Cation	230	0.26 J
			Di-n-butyltin Cation	230	0.11 U
			Tri-n-butyltin	230	0.11 U

Notes:

TSL = Tissue Screening Level

IAC = Investigation Area of Concern

µg/Kg = microgram per kilogram

U = The analyte was analyzed for, but was not detected at or above the method detection limit

J = The analyte was detected above the method detection limit but below the method reporting limit, so the result is an estimated value

As shown in the table above, no organotin compounds were detected in the background samples. One organotin compound, n-Butyltin Cation, was detected in the predator fish sample and the bottom feeder sample at concentrations of 0.34 parts per billion (ppb) J and 0.26 ppb J, respectively. Both concentrations are nearly three orders of magnitude less than the target screening level (TSL) of 230 ppb.

The phased tissue sampling approach is summarized in the table below. The highlighted text illustrates the decision point path, as dictated by the sample results.

Phase	Tissue Sample	Decision Point	
		Criteria	Action
Phase 1	Catfish and bass tissue - Dry Dock and background	Maximum Site Tissue < TSL	No further assessment
		Maximum Site tissue > TSL	Further assessment warranted - Phase 2
		Site versus background tissue	Perspective on regional tissue enrichment
Phase 2	Catfish and bass tissue - other Site areas	Mean Site tissue < TSL	No further assessment
		Mean Site tissue > TSL	Additional comprehensive assessment
	Crawfish tissue - Site areas and background	Mean Site tissue < TSL	No further assessment
		Mean Site tissue > TSL	Additional comprehensive assessment
		Site versus background tissue	Perspective on regional tissue enrichment

Notes:

TSL = Tissue Screening Level

Consistent with the phased tissue sampling approach that was approved by USEPA, no further assessment of organotins in fish tissue is warranted or recommended. The results will be formally reported in the forthcoming Fish Tissue Report.

Please respond to this email with your concurrence that no further fish tissue organotins analysis is needed as we would like to notify the lab.

Please contact me with any questions.

Thanks,  
Scott

Scott Lindenmuth  
Senior Scientist

e. [scott.lindenmuth@ehs-support.com](mailto:scott.lindenmuth@ehs-support.com)

p. 312-882-3705

o: Chicago, IL

w. [ehs-support.com](http://ehs-support.com)

